App. F. IX-4

1927.

File No. 4-27

Previous References
R.A 1-26-(15-22)
R.A 4-27-(1 to 11.
" 12 & 13
" 4-27-23

Serial Nos. 16, 22, 25
26, 27, 27(A) and 27(

Later References

General and Revenue Secretariat.

Serial Nos. Seven

P26H/L-1/11

Part B for August 1928.

SUBJECT

Petitions from Messrs. Belatur Lakshminarayanappa, Belatur and Dase Gowda, Molegur, Heggaddevankote taluk re elections to the R.A from the Heggaddevankote rural constituency.

Sl. 25) To B. Lakshminarayanappa, Belatur, Heggaddevankote taluk
No. Rel 806 & 5.5.1928.
With reference to his petition (Sl 22) requesting that his election may be allowed to stand or his petition referred to the Rev. Commr for disposal informs that Govt have passed orders in this case after careful perusal of the records and that they see no reason to reconsider the same.

Sl. 27) To Mr. Dase Gowda, Molegur Heggaddevankote taluk
No. 4356 & 17.5.1928.
With reference to his petition (Sl 26) informs that the deposit of Rs 100/- deposited by him has been ordered to be returned to him and that the appeal petition, having been disposed of by Govt. cannot be referred to the Rev. Commr for disposal

Bellary 5/9/1928.

General and Revenue Secretariat. RA File No: 4 of 1927

Serial No 6

From Mr. Belathur Lakshminarayanappa
Petn dt 17.2.28.
(Received from Dewan's office with petition No. 2597 dt 21.2.28.)
Requests that his appeal Mr regard to the Heggadadevanakote ~~Taluk~~ Rural Constituency election to RA may be disposed of on regular enquiry just as the case of Messrs. K.L. Bhashyam Vs Parthasarathy Iyengar was heard and disposed of in the October session of 1926

1. Submitted.
2. The papers required for reference in connection with the disposal of this petition have been put up with D 142/28 (TA Bill claim for Rs 257- from Mr. B. Lakshminarayanappa for his journey to Mysore in October 1927) & submitted.
3. Members of Council & their returns may perhaps be awaited.

3 Yes

3/3 3/3 3/3

Sec B 11.3.28

8R 6/3

Recd 8/3/28

Reference will be made to RA 1 & 6 accordingly 12/3/28

NOTE.—Contn. sheet.

1,000—3-28—SPB—60,000—24-5-2

167
Rel

(2

App. F. III—2]

General and Revenue Secretariat. RA File No. 4 of 1927.

Serial No.	
	4 Submitted. V. Belathur Lakshmi-Narasappa, requests that his appeal may be disposed of on regular enquiry first as in the case of Messrs K.J. Bhashyam Vs Parthasarathi Ayangar reached and the Dasara Season of in Mysore Camp in 1926.
Flags M & V in RA 1-26 (Sls 1-IV)	5 Kind attention is invited to Flags D & O in RA 4-27) to their disposal of his previous review petition which was not admitted by Government.
(X & XI)	
V. O.	
	(Secy) 12/3
	12/10/3
	12/3
This was found thrashed with the person of file of Mr. S. Gyana-Sivian.	
25/4	25/4
for orders	

NOTE—Contn. sheet

WD 0321—GPB—60,000—24-5-27

General and Revenue Secretariat. RA File No. 4 of 1927

Serial No. 22

From Mr. B. Lakshminarasappa of Belathur, Dt. Board Member Heggadadevankote Taluk, Mysore Dt.
Petition Dt. 31.3.28 Rcd. 13.4.28.
Prays for the reconsideration of the order passed without hearing him & to direct that his election be allowed to stand ~~stand~~ or his petition may kindly be referred to the Revenue Commissioner for disposal in accordance with the Govt order No. Rel 663 dated 19/20 March 1928 RA 32-27-1 & states that the petitioner is a respectable land-owner paying land revenue to the extent of nearly 500 Rs per annum, besides being a member of the District Board Mysore & keenly interested in Public life for the last 25 years.

No: 216-218 (Sl 4) 5.10.27

1 Submitted.

2. Mr. Lakshminarasappa of Belathur prays for a reconsideration of the orders passed by Govt in their order No. 216-218 dt 5.10.27 setting aside his election & declaring Mr. ~~Gonda~~ M. Subba Rao as elected a member of the RA from Heggadadevankote Taluk - I submit

Sl. 4.

NOTE—Contn. sheet

Serial No.

that his present petition may be forwarded to the Revenue Commissioner for disposal in accordance with G.O. Rel 663 - RA 32-27-1 dt 19/20. 3. 28.

3. Submitted for orders.

Please put up the previous file. 21/4

20/4

6 Resubmitted with previous file (RA 4-27 - Flags &c.)

25/4

25/4

7. This is a petition for review of the order passed by Govt and cannot be sent to the Rev. Comr for disposal under the notification of 19/20. 3. 28, as requested by the petitioner. His request for review of the order of Govt has already been considered once before and he has been informed that "Govt do not find any grounds to review the order passed in the matter." In his previous

Flag R

4 The previous papers were submitted. Work-Secy 21/4 12 3 28

SR 20/4

Secy are not inclined to do not recommend having seen the above 21/4

DR-S.N.A. Please make a careful search.

SR 21/4

File found missing. It is with Mr S. G. Hanson who left yesterday in afternoon.

21/4

O (RA II)

NOTE—Contn. sheet

General and Revenue Secretariat. File No. 4 of 1927

Serial No.

person who he had urged his grievance in that the order was passed without his being given an opportunity to be heard. He may perhaps be told that Govt. have passed the order after a careful perusal of the records ~~and~~ and see no reason to reconsider it.

OFFICE OF THE THIRD MEMBER OF COUNCIL
30 APR. 1928
No. 10719

28/4

8. The review has already been disposed of by Govt. Hence his petn cannot be sent to R.C. for disposal

3rd item

8/4 28/4

9. Yes Com 4/5 8/4 2/5.

10. Draft 2/5

11. Draft submitted 3/5 8R 4/5

12 Issued 4/5

25 To Mr. Balathen Lakshminarasappa No: Rel 806 D 25.5.28.

Informs him that Government have passed orders in his case, after a careful perusal of the records, i

NOTE—Contn. sheet

General and Revenue Secretariat. RA File No. 4 of 1927. 6

Serial No.	
	that they see no reason to reconsider the same.
26	From Mr. Dase Sowda petition dt 21.4.28 Prays that his appeal filed with the Law Secretary in Connection with election dispute May be transferred to the Rev: Comr for disposal.
	Orders Thereon "Law Secretary for a note (Sd) K.C. 23/5
13	Submitted.
14th	the election held from Heggadadevanakote Rural Constituency on 12th/13th March 1927 Mr. Bellthur Lakshminarayanappa was elected as a Member of the Repr: Assembly having secured 1011 votes.
15	Mr. Dase Sowda, the defeated petitioner & one of the defeated candidates appealed against this election before the Dy comr. Mysore Dt, & that Officer after enquiry upheld the election of Mr. Lakshminarayanappa. Mr. Dase Sowda, appealed to Govt on 15.8.27 against this order of the Dy comr. and the records were sent for in the case & it was found on a perusal of the records, that both Mr. Dase Sowda, & B. Lakshmi were guilty of corrupt practices, and had paid cart hire to voters
Page X (H1)	

NOTE—Contn. sheet

WD 0324—GPB—60,000—24-5-26

General and Revenue Secretariat. | File No. 4 of 1927.

Serial No.

Flag O
W R 14-27
Sl 4

It was therefore ordered by Govt that the Candidate who has obtained the next highest number of Vote, may be declared duly elected and accordingly Mr. M. Subba Rao was declared elected vide Notifn Dt 17.10.27.

Flag C & O
(Sl 4 & 7)

17 The appeal of Mr Dasa Gowda was disposed of by Govt in accordance with Rule 6 of the Rules vised with Notification No. P 2400 - Legis 12-23-7 Dt 17.11.27

Page 89 of Part 2 L.C. Manual Vol I

It is also submitted that the the Notification authorising the Revenue Commissioner to dispose of these appeals, vised on 19.3.28 ie long after orders of Govt were issued on Mr Dasa Gowda's Appeal petition. Perhaps the petitioner may be informed that orders were passed long ago & that nothing could be done. his request cannot be complied with -

Flag Q

18 Submitted for orders.

12/5
SR
14/5

1: Please put up a draft endt. re both the points referred to in the petition.

14/5

20 Draft submitted.

15/5 SR

Secy) 14/5

15/5

20 spd

21

14/5

Mrs NA
SR
14/5

NOTE—Contn. sheet

WD 0324—GPB—60,000—24-5-27

General and Revenue Secretariat. | File No. 4 of 1927

Serial No. 27

From Dare Crowder No. 4353 D/17.5.28 informing him that orders have already been passed in letter No. 733 D/14.4.28 directing the return of the deposit amount to him & that from the appeal having been disposed of by Govt on 5.10.27 in accordance with Rule 6 of the rules issued in Notification No. Poll 00/Legis/12-23-27 D/7.11.23 Govt Notification No: Rel 663 D/19.3.28 authorising the Revs Comr. RA 39-27 to dispose of such appeals does not apply to the case.

27(A) From Mr. Bellur Lakshmanarao appellant Petition D/2.6.28

Requests that a fresh enquiry may be ordered in regard his appeal case giving him an opportunity of presenting his case, & in the meantime pending the result of any such enquiry or decision to re-instate him in his membership as the duly elected representative of his Constituency.

Voc Rep D (sd 4)

27(B) From the same Gentleman 12.4.28. Rev 1.6.28. Requests that his appeal case setting aside his election as a member of the Dt Bd declaring Mr. Maggi Subba Rau as duly elected as an Dt Member, may be ordered to be

NOTE—Contn. sheets

WD 0324—GPB—60,000—24-5-27

General and Revenue Secretariat. RA File No. 4 of 1927

Serial No.

Regarding the Rev: Comm:

22 Submitted.

23 The Petitioner requests, in his petition dt. 12.4.28 (received on 1.6.28) that his appeal against the order of the Govt. setting aside his election as a member of the R.A. may be ordered to be heard by the Dy. Comm. Revenue Commissioner.

Pvt D 11

Pvt D 1

24 Again in his petition dated 2.6.28, he complains that no opportunity was given to him for presenting his case & requests that a fresh enquiry may be ordered & an opportunity given to him for presenting his case &c.

25 Attention is respectfully invited to para: 8 of the Office Notes.

(Page 5 of Office Notes) (—do—)

26 A draft endorsement has already been submitted (vide Sl: 25) that Govt have passed orders on a careful perusal of the records & that they see no reason to reconsider the same.

27 Mr. Lakshmicarayana, ~~Secy to the Petitioner~~ intends to submit that this petition should be heard, in the same manner as that of Mr. Hoskote Bhadrappa through a Counsel Counsel. (Vide para 4 of his letter dated 2/6/28)

28. For orders.

P W.D. I

16/6 16/6

NOTE.—Contn. sheet

General and Revenue Secretariat. Rel File No. 4 of 1927.

Serial No.

2. The petitioner was elected to the Representative Assembly by the Heggadadevanakote - Rural Constituency at the last General Elections. An objection petition was filed against his election by a rival candidate, Mr. Dase Gowda, and it was rejected by the Deputy Commissioner. Mr. - Dase Gowda then preferred an appeal to Government. After ~~examining~~ examining the evidence in the case, Government found that both these candidates had - resorted to corrupt practice and declared another, who had secured the next largest number of votes, as duly elected. The gentleman last mentioned has attended two sessions of the Assembly since.

Vols marked Flag O in RA 4 of 1927-28 (Page 2 of R.A 4-27-(16 11))

3. The petitioner has been persistently making it a grievance that he was not heard before the case was decided against him and it is for the third time now that he is urging this grievance. His present requests are --

(1) that the case may be referred to the Revenue Commissioner for disposal - under the Notification of 19th/20th March 1928, or

(2) that a ~~fxxxxx~~ fresh enquiry be - ordered, or

(3) that Government may review the order after hearing him.

Flag Q (RA 32-27-1)

3. The case having been decided by Government, the Notification of 19th/20th March 1928 does not apply to it and the present review petition - cannot be referred to the Revenue Commissioner.

Flag R

NOTE—Contd. sheet.

4. As it is about 15 months now since the election

General and Revenue Secretariat. | Ref File No. 4 of 1927.

Serial No.

election took place, any evidence which the petitioner may adduce at this distance of time is liable to be viewed with great suspicion and a fresh enquiry is not likely to serve any useful purpose.

109 3/7.

33. The petitioner's prayer for reconsideration has been rejected twice and he has been told that Government have decided the case after carefully perusing the records. Whether the present petition is to be posted for hearing is for orders.

Secy) 3rd Dhem Vr. of Indian. 1926 3/7

34. I do not wish to note on this case as the lady has made unwarranted attack on me. 3.7.28.

Pl. see B

35 Mr. Krishnaswamy issued on 5.5.28. I don't think any notice should be taken on the subsequent petns. (Court these petns require Court Stamps?) 4.7.28

36 Submitted.

Mr B & A 5/7/28

37 Every Memorandum of appeal to the Chief Controlling Executive or Revenue Authority should be stamped with a Court fee stamp of 2 Rs as under Schedule II of the Mysore Court fees Regulation.

38 But, if it is granted, that these petitions

NOTE—Contn. sheet

General and Revenue Secretariat.

R A File No. 4 of 1927.

Serial No.

were received in the Revenue Office, and forwarded to the Secretary, Revenue Board & C. office

Secy)

278 6/7

39. But this doesn't mean that ~~~~ petns are to be ~~~~ Exempt from stamp- ~~~~ when petns as received which require to be stamped under the law are returned without stamps they can be returned

40. This requires the duty of scrutiny and put up memo. if he considers it necessary to do so.

Chief Sect with Comp[s].

42 Govt order of 11-7-22 issuing revised Petition rules and Govt order of 25-4-27 directing the exemption from Stamp duty of certain classes of Petitions relating to Revenue matters presented during jamabandi are put up.

43 A draft memo is also submitted as directed.

44 Please bring up

45 The draft is entirely altered & redrawn.

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-28

926/Rel

App. F. III—(2) (13)

General and Revenue Secretariat. | File No. | of 192 .

Serial No.

46. For Cards.

Ch Leg 18/16/8

CHIEF SECRETARY. 16 AUG. 1928

47 Please have relevant extracts & put up with typed draft for abstemy orders. Dft may be sent to Concerned Branch

RRW 1878 Mr. AKS 18/8

48 Extracts taken. This file maybe returned to Hon'ble R A & LC Section.

AKS 23.8.28. 49 Returned to R & LC Section

Submitted for orders, if Hon'ble Minister not may the file be returned now.

26/8 SR 25/8

Yes 27-8 M

OFFICE OF THE SECRETARY M. S. N. A. 24 AUG. 1928 REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-23

D 167/Rev

Pet. No. 2597/Rev 2

DEWAN'S OFFICE,

Bangalore, dated 21.2.1928.

RA 4-27-16

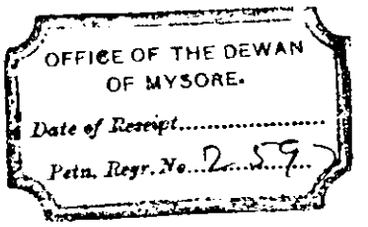
The accompanying petition addressed to the Dewan is forwarded, with compliments, to the Secretary to Government, R. A. & L. C. Department.

OFFICE OF THE SECRETARY
25 FEB 1928
ASSEMBLY
LEGISLATIVE

By Order,

Private Secretary to the Dewan.

2



TO

THE DEWAN SAHIB,

TO THE GOVERNMENT OF HIS HIGHNESS

THE MAHARAJA OF

MYSORE.

The humble petitioner of Kolturo Lakshminarayappa,
R.A. & District Board Member Hoggadadevanakote Taluk.

Respected Sir,

H. G. 1456 / 20.8.1906 Section 3 (iii)

In connection with the election of the appeal of Mr. Kolegyur Deve Gowda, Hoggadadevanakote Taluk regarding the election to D.B. from Hoggadadevan Kote rural constituency without issuing a notice to me as per standing orders, I presented an appeal on 6-10-27 to your honour at Mysore. As there was no sufficient time to explain my case, I requested for an interview which was kindly granted to me on 22-10-1927. Then I personally requested the facts of the case I was promised to be given a notice for regularly enquiring the case. As no notice was received till 21-11-27 I presented a sworn statement of that day with regret I have explained the case fully. To my surprise, on the 23rd. November 1927 during your absence on leave. I received an endorsement personally from the Law Secretary to Department rejecting my petition.

2. To represent this matter again in person, I came to Bangalore on 25-11-27. As your honour was absent at Bangalore I requested for an interview which was granted to me on 7-12-27. On that day, as there were too many visitors, I could not intrude upon your precious time too l

that lay when I was again promised a notice for enquiry after fixing a date.

3. It is a matter for regret that while all the election Appeals before your honour's Court is still pending enquiry, the one appeal case relating to me, has been disposed of against the Government Orders even withouth obtaining the connected records, by the Learned Law Secretary who is fully conversant with all the standing rules & orders of Government on the subject.. This perhaps must be attributed to my misfortune. In this connection I beg to invite kind reference to the appeals presented by myself & Mr. C. Nara-simiah in receipt of the election in 1924, which was disposed of similarly by the same person. I would also bring to your kind notice with regret that while, all election appeals entertained before the case against me was entertained and still pending the case against me was disposed of even without giving me notice.

4. Finally I beg to state that I am quite confident that on perusal of the records you will be quite convinced that I have not had recourse to any corrupt practice as alleged by the opposallant Base Gowda. I once again pray that this appeal may be disposed of on regular enquiry just as the case of Mr. . Shachyan VS. Parthasarthi Iyengar was heard in your presence in Mysore camp 19 as was contained in person by your Honour.

I beg that the following papers may be reffered to whil disposing of the appeal.-

1. The Petitioner's appeal dated 8-10-27.
2. Sworn statement presented on 22-11-27
3. Petitioners statement presented on 3-12-27
4. Voters' lists, Voting slips & counter-foils.
5. Polling Officer's reports.

6. All papers connected with the enquiry of the case in the Deputy Commissioner's Court.

7. Appeal records relating to the year 1924.

(No. 4 5 & 6 will have to be obtained from the Deputy Commissioner's office)

Further I pray that I might be favoured with an endorsement that the case will as promised be decided after an enquiry of the concerned parties.

I beg to remain,

S I R,

Your most obedient servant,

17.2.1928

P.S. With regard to giving notice of hearing to the party, I humbly pray your Honor to kindly refer to Rule 12(2)(b) of the Rules prescribed for the conduct of business in the council, published in the extraordinary Gazette under Notification No. P. 1456 dt 20-8-1906 and Section 6(a) of the Rules as regards the decision of doubts and disputes as to the validity of any election to the Representative Assembly as defined in Revenue Code published in Govt. Notification No. P. 2400-Legis. 12-23.7 dt 7-11-1923.

I herewith submit a copy of the order passed by Justice Sd. Miller, Chief Judge in Criminal Revision Petition No. 115 of 18-19.

IN THE COURT OF THE SESSIONS JUDGE, MYSORE DIVISION.

Dated Mysore 3rd March 1919.

Present:

B.Nagappa, Esq., Bar-at-Law,

Sessions Judge.

Mysore Criminal Appeal No.32 of 1918-1919 against the conviction and sentence passed by the First Class Magistrate, Mysore Sub Division, in C.C.No.9 of 1917-1918 under Section 409, Indian Penal Code.

Lakshminarnappa. Accused (Appellant).

The appellant was charged with having committed criminal breach of trust by a public servant, an offence punishable under Section 409 I.P.C.

2. The Magistrate found him guilty of the said offence and sentenced him to suffer simple imprisonment for one year and to pay a fine of Rs.500/- and in default to suffer further imprisonment for six months.

3. The grounds of appeal are:-

(i) The prosecution has not shown that the accused collected any money as a public servant and as such was bound to remit the money so collected to the Treasury immediately after.

(ii) The evidence for the prosecution clearly goes to show that the accused with some other principal men - of the village made collections from the villagers for - the extension of the village without any specific orders from Government.

(iii) The evidence on record also shows that the - moneys collected were not in the exclusive custody of the accused.

(iv) Under the circumstances as alleged by the prosecution there was no duty cast upon the accused to pay the collection within any definite time, even if he were in the exclusive custody of ~~the~~ such collection.

(v) The prosecution has entirely failed to prove that the accused dishonestly misappropriated the collections and that he is guilty of any offence under Section 409 I.P.C.

(vi) The learned Magistrate has entirely failed to consider the evidence of the official witness examined - for the prosecution which goes to show that the accused received no definite authority for making any collection and that the said collections made by him and others were all voluntary.

(vii) There is no justification on the part of the learned Magistrate for observing that the prosecution - witnesses 1 and 19 were bought over by the accused.

(viii) The evidence of the villagers, examined for the prosecution, clearly proves that the accused and other - prominent villagers made collections voluntarily, for the acquisition of vacant sites with a view to ultimately obtain the sanction of Government for such acquisition.

(ix)

(ix) The accused has not made any inconsistent - statement or prevaricating statement as observed by the learned Magistrate.

(x) The accused could not make remittances to the Treasury from time to time as the Treasury authorities - refused to receive such collections in parts.

(xi) The accused did not retain the collections for a period of two years as observed by the learned Magistrate.

(Xii) The defence has been completely established by the oral and documentary evidence.

(xiii) The sentence is excessively severe.

(xiv) The judgment of the learned Magistrate is opposed to law, facts and probabilities and is partly based on inadmissible evidence and surmises.

4. The prosecution story is briefly as follows:-

The villagers of Kuntana Belathur, Heggadadevankote Taluq requested the Government through their Taluq Amildar to acquire a land of one Mr.Annajiengar for the purpose of building houses. The Amildar acceded to their request and promised to obtain - necessary orders from the higher authorities provided the villagers were prepared to pay the compensation amount. He accordingly ordered the appellant who was then the Shanbhogue of the Village, to collect the amount from the villagers and remit the same to the Treasury. Such of the villagers as were in need of the building site paid the amount fixed for the building site to the appellant and obtained receipts therefor. The aggregate sum - thus collected by the accused on 25th and 31st of October 1912 - was 228 rupees. The appellant did not remit this sum to the - Treasury till 1st of May 1914. Hence he is indicted for an offence under

under Section 409 of the Indian Penal Code.

He pleaded not guilty and stated that he did not collect the amount as a public servant but as one of the several leading men in the village, that the collections were left with - Chickkanna Naicka (P.W.1) one of the leaders of the village, - that when he offered to remit part contributions to the Treasury, Narayana Rao, Sheristadar, refused to accept the same, and desired him to bring the full amount, and that he then took back the amount and left it with Patel Putte Gowda.

5. That the appellant was entrusted with the sum of Rs. 228/- by many of the prosecution witnesses who are the villagers admits of no doubt whatever. The receipts (Ex.P.1 and P.12) which are in the handwriting of the appellant shew clearly that he did receive the amounts in accordance with an order from the Taluq Office for the purpose of remitting the same to the Treasury as a deposit.

No mention by Treasurer

. Exhibit P.14, the application presented by the appellant, to the Taluq Office on 1st of May 1914, places the matter beyond all reasonable doubt, for it contains a clear admission that he collected Rs.228/- as compensation amount for the acquisition - of land for building purposes from the villagers for the purpose of remitting the same to the Treasury in pursuance of directions given.

He has also set up in it a plea that when he offered the - part payment on a prior occasion, the Treasury did not accept it, on the ground that full amount of Rs.408/- should be collected - and paid.

If this plea is substantiated it may help the accused by - dispelling the presumption of dishonest intention. I shall deal with it presently.

The evidence on the record coupled with the admission of the appellant fully bears out the fact of appellant being entrusted - with an aggregate amount of Rs.228/- on two occasions, viz., 25th

and

The facts of this case were that the Head Clerk of an office was entrusted with the custody of certain stamps and the latter made them over to the Nazir. It was held that the Nazir had by his misappropriation brought himself within the mischief of Section 409, I.P.C.

But though a person has no jurisdiction to act in a particular transaction still the exigency of the service requires that he must be entrusted and prima facie act in that capacity, as it was in this case.

It is of the highest importance that in view of the safety of the public and as well of the Government, its servants should be above temptation and command the utmost confidence of the public. According to the exigencies of service, the Government may orders its servants to act in a particular transaction and trust them to do it in a manner befitting a public servant on whom is enforced the high standard of morality.

The words "in any manner" in Section 409 I.P.C. indicate clearly that the trust may not necessarily be created in a legal manner, it is sufficient if the trust is accepted. Having regard to these considerations, it will be unnecessarily narrowing the scope of section 409 for which there is no warrant, if we were to restrict its operation to only those class of public servants who have a legal and proper duty as a public functionary to collect moneys.

It must therefore, be held as proved that the appellant was a public servant and as such he was entrusted with the sum of Rs. 228/- for the purpose of depositing the same in the Taluq Treasury.

The defence set up by the appellant that he did not keep the money with him and handed it over to the 1st witness for prosecution, is rightly disbelieved by the Magistrate. Even if we believe it, it does not help him. When there is a duty cast upon him to deposit the amount in the Treasury, violation of such a duty

with

with dishonest intention will bring the offender within the mischief of Section 409.

I must, therefore, overrule the first contention.

7. The second contention raises an important question of mens rea.

In the case of criminal breach of trust mens rea constituting criminality consists of dishonesty and violation of a legal or contractual obligation and the act or omission following upon such state of mentality must be a positive one.

In the present case, the testimony of Mr.Sreenivasiengar, P.W.13, the Amildar, shews that in spite of his orders, the appellant omitted to fulfil the trust and failed to deposit the amount into the Treasury as was his plain duty to do, that he was under suspension after he collected the amount for some other offence and that until a pressure was brought to bear upon him by the Sub Division Officer, he did not deposit the amount, till 1st May 1914, i.e., nearly for a period extending over 18 months after collection.

His plea that the Treasury Officer Mr.Narayana Rao refused to receive this part contribution is not proved. But on the other hand Mr.Narayana Rao's evidence as 15th witness for the prosecution and of the testimony of Mr.Sreenivasiengar negative such a plea and establishes the fact that the appellant never offered the amount into the Treasury, before the 1st of May 1914. If it was a fact, it was easy to produce an endorsement from the officer that refused to receive the amount.

This plea as well as the plea of retention of money by others is evidently set up to prove his bona fides. He has not established his pleas.

The facts and circumstances of the case fully justify me to conclude that the prisoner had dishonest intention in retaining the amount for a considerable period of eighteen months and in consequence caused wrongful loss, and that he is rightly convicted

and 31st October 1912 and that sum was not remitted to the Treasury until a pressure was brought to bear upon him by the Sub - Division Officer on 1st of May 1914.

6. The arguments strenuously advanced by the learned Advocate Mr.H.Narasinga Rao, on behalf of the appellant, resolve themselves into two main points which are to be determined. That 1st point is that the accused was under no legal obligation to deposit the amount collected into the Treasury without delay; and secondly, mere detention without dishonest intention for a length of time is not conclusive proof of criminal misappropriation or criminal breach of trust.

In the present case the prosecution have placed some facts, which if believed, will establish the offence with which the appellant is charged.

The prosecution adduces evidences to shew that the Amildar trusted his shanbhugue, the appellant, as a public servant and verbally ordered him to collect the compensation amount and place the same in the Treasury as a deposit pending acquisition of the land, and that the appellant collected the amount and thereby accepted the trust.

Though it may not be within the legitimate scope of his duties as a shanbhogue to collect the compensation amount, he becomes liable under Section 409 I.P.C. by the mere fact of his accepting the trust. In Queen vs.Ram Dhun Dey (13 W.R.77, Criminal Rulings), Jackson, J, lays down as follows:- "Section 409 is far from limiting the mode in which a trust arises, whether by specific order or by reason of its being part of the proper duty of a public functionary. The words are "whoever being in any manner - entrusted with property". The prisoner, therefore, was in a certain manner entrusted with property in his capacity as a public servant, and being so entrusted he committed criminal breach of - trust, and came, therefore, most fully, within the terms of Section 409.

The

under Section 409, I.P.C.

This prisoner appears to be an intelligent man possessing considerable influence in the locality and paying a decent sum as assessment to Government. He was entrusted with a sum of Rs.228/- by the villagers for the purpose of getting sites to build houses. By his not depositing the amount, the authorities failed to comply with the request of the villagers who seem to be in earnest about building houses.

It therefore appears to be that the sentence of one year's simple imprisonment plus a fine of Rs.500/- is quite inadequate for the gravity of the offence committed under Section 409,I.P.C.

As this Court has no power to enhance it, I affirm the conviction and sentence and dismiss the appeal.

Pronounced in open Court.

Sd.B.Nagappa,

Copy

Sessions Judge.

3-3-1919.

7.2.1928

12

IN THE CHIEF COURT OF MYSORE AT BANGALORE

Wednesday 2nd day of July 1919. Before Sir Leslie C. Millor Kt. Chief Judge.

Crminal Revision Petition No. 115 of 1918-1919.

Lakshminaranappa Accused. Petitioner.

(By Dewan Bahadur L. A.Govindaraghava Iyer)

The Governement of Mysore Complainant. Opponent.

(By Mr. K. Shankaranarayana Rao, Government Advocate for Government)

Criminal Revision Petition against the decision of the Session's Judge of Mysore in Criminal Appeal No.32 of 1918-19 confirming the conviction and sentence passed by the Sub-Divisional first class Magistrate, Mysore Sub-Division in Criminal case No. 9 of 1917-18.

This petition coming on for hearing on Monday the 30th Day of June 1919, the Court pronounced the following:-

O R D E R.

The main facts of the case are clear. The accused who was shanbog of the village was entrusted by the Amildar with the duty of receiving subscriptions made by the villagers, or some of them, to meet the cost of the acquisition by the Government of a plot of land which they wanted for the purpose of erecting houses thereon. He retained the collections in his hands from the end of December 1912 to the end of April 1914 when under the direction of the S Subdivision Officer be paid them into the Taluk treasury at Heggadadevanakote. The

sum to be collected before acquisition would be undertaken was in round figures Rs. 400/-, but the sums actually received by the accused did not amount to more than a little over Rs. 200/-. The remainder was finally collected by the subdivision Officer in 1914, but at the time of trial in 1917 the acquisition apparently had not been completed by the Government. This has been convicted by a first class Magistrate of criminal breach of trust as a public servant in respect of the subscriptions collected by him and the conviction has been confirmed by the sessions Judge on Appeal. It is assailed before me on two grounds.-

(1) That the accused was not entrusted with the money in his capacity as a public servant and

(2) That the evidence will not justify a finding that his retention of the money was dishonest

I have found it unnecessary to decide the first ground because it seems clear to me that the petition must secceed on the second. There does not seem to me to be any evidence on which the courts below could reasonablly conclude that the accused's conduct in this matter was dishonest. The evidence of the Amildar Sreenivasa Iyengar (13th witness for the prosecution) is so far as I can judge accepted by both the courts below and it shows that while he from time to time was directing the accused to remit the collection to the treasury, the accused preferred to do so after the full amount required had been collected. (The real contravercy) to use the words of the witness, was whether remittances should be made from time to time are all at once after the amount required was fully subscribed. There is no evidence in the case incosistant with this statement, and as I have said the courts below rely on his witness.

Therefore I have it that the accused never through out the whole period during which he had the money, in his hands attempted to conceal his possession of it, he always admitted that he had it, he refuse to obey the Amildar's oral directions to take it to Hegga-devanakote and deposit it in the treasury. There is no evidence whatever that he used the money for his own purposes; the evidence is that he is a well to-do land owner and there is nothing to shew that he was in want of money, it would not follow necessarily that he is guilty of criminal breach of trust. The Learned Government Advocate bases his argument largely on the ground that the villagers entrusted the accused with their money on the express condition that he was send it to the treasury. I do not find any evidence of this. Those of the villagers who are examined do not say so and the receipts produced do not as the first class Magistrate seems to think to prove it. It is suggested by the Government Advocate not without some reason, that the receipts or some of them have been in the interests of the accused. I do not find that that suggestion has been made in either of the courts below at any rate the accused was not asked to explain any thing in any of them, but assuring that they have been altered and reading them as the Government Advocate would read them. I find no proof in them or any of them that the villagers excepted their contributions to be deposited in the treasury before the whole sum required was contributed. The " Deposit " mentioned in the receipts may equally well have been the deposit of the whole pending acquisition. There is in my opinion no evidence believed by the courts below from which we can reasonablly conclude that the ryots made their contributions on the understanding that the money should at once be sent to the treasury.

The courts below as it seems to me have convicted the accused on two grounds.

(1) That his detention of the money for a long period is evidence of dishonesty and

(2) That he has made a false defence. The seconed ground is obviously irrelevant untill some foundation for a conviction is laided by the prosecution the facts that a defence is false may in suitable cases go in corroboration of the prosecution. It can never be a ground for a conviction by itself and as here I find nothing in the prosecution to suggest dishonesty it seems obvious that the truth of falsity of the defence is not a matter of impordance. I do not therefore decide whether it is or not true that the accused on one occasion offered to pay into the treasury the collections as so far as they had come to his hands and the office was refused or whether during part of the period of retention the money was or was not in the hands of the first witness for the prosecution the Yajamana of the parivars. Both courts below that the defence in these points is false and I will asume that they are right.

The first ground is, it seems to me the ground on which both courts below have gone wrong. No doubt the detention of money for a period long or short may in some cases raised, presuption of dishonesty but this does not seem to be one of those cases.

Here the money did not belong to the Government and the Government had ready nothing to do with it untill the full amount of Rs. 400/- odd was collected. They might have received it into the treasury or they might not, it not theirs' and the full amount of Rs. 400/- was never collected the sums collected would have to be returned to the villagers. There was therefore no dishonesty in

keeping the money out of the treaury, so far as the government was concerned. They last nothing by its detention rightfully or wrongfully. This the sessions Judge sees and he if I may say so invents for the ryots a wrongful loss which none of them have suggested and which it sees to me has no support in the evidence the nonpayment into the treasury of the collections, he says delayed the acquisition of the site to the prejudice of the villagers. But there is nothing to shew that the accused was responsible for any delay in collecting the required amount. He was not entrusted with any duty of demanding payment but only so far as I can see, or receiving subscriptions offered. There is nothing in the Amildar's evidence to suggest that the government cared whether the money was collected or not. It is clear that there would no acquisition till the whole amount was collected and it was collected only a day or two before the sums received by the accused were remitted to the treasury.

Thus the evidence does not prove wrongful loss either to the government or to the villagers. The learned government Advocate argue that there was wrongful gain to the accused, and that we must presume this (there is of course no direct evidence of it) from the retention of the money and the accused refused to pay it into the treaury.

If the money was government property entrusted to the accused the public revenue, for instance, its retention without any showed or right might certainly raise a presumption of dishonesty against the accused but that is not this case. There is realy no evidence beleived by the courts bel[illegible] that the owners of the money the villagers, cared whether the accused or the government held their contributions for them pending

the completion of the collection. In the circumstances I am of opinion that the mere intention of the money is not mere evidence of dishonesty.

Nor does the fact, it fact it be that the accused retained the money against the orders of the Amildar go far as evidence of dishonesty in the absence of anything to shew that his refusal was because he had not the money or was not able to account for it. He may have been disobedient and obstinate and he may have been unscripulous is his defence when attacked but he is not alleged to have divide at any time that he has the in his possession and had no account for it. So far as I can see he was as much or as little untitled to make a profit for himself out of it's retention as the government would have been had it been in the treasury, and if we asume, as probably we may, that his refusal to hand it, was because he wanted to use it, I am unable to see that justifies the conclusion that he was a dishonest depositary. It was not suggested that the villagers have ever asked him or the government to pay interest on their contributions, and those contributions had to remain in some one's hands.

Finding that the evidence relied on by the courts below is unsufficient to afford the necessary proof of dishonest dealing by the accused with the money entrusted to him. I set aside the conviction acquit the accused, discharge his bail, and direct refund to him of the fine if he had paid it.

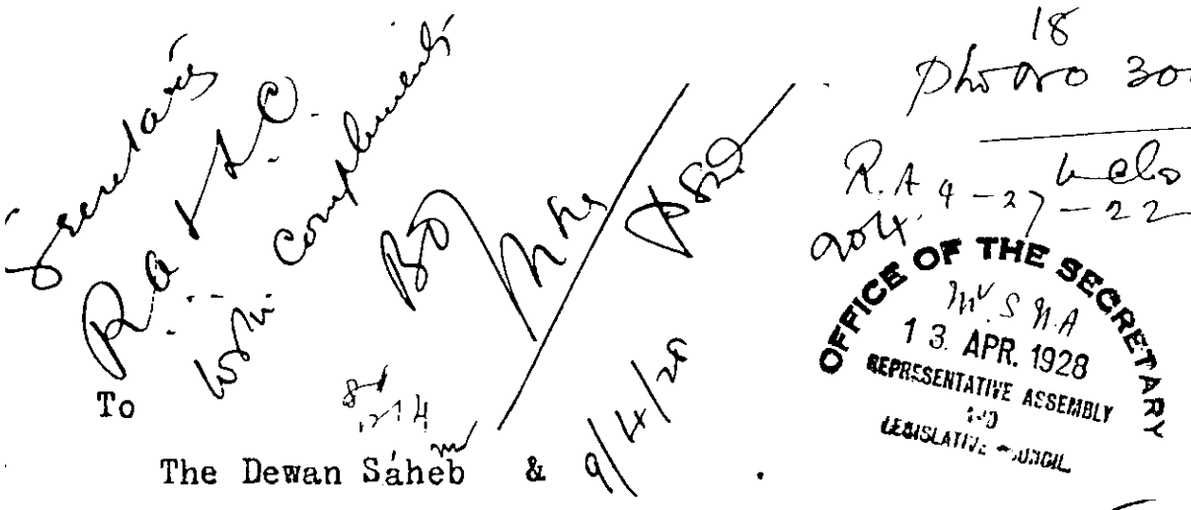
(Signed) Lesli C. Millor,

CHIEF JUDGE,

(Signed) Narasimhiengar,

Deputy Registrar.

" True Copy "



To

The Dewan Saheb &
President, Representative Assembly,
Bangalore.

Petition No. of 1927-1928.

B. Lakshminaranappa of Belathur, District Board Member, Heggadadevanakote Taluq, - Mysore District. — Petitioner.

Under Paragraph 3, Proviso (iii) and Paragraph 12 (2) (b) of Government Notification No.1,456 dated the 20th August 1906, - and No.Rel.663-R.A.32-27-1, dated 19/20th March 1928, the petitioner abovenamed most respectfully begs to submit as follows:-

1. That in the General Election held on the 12th March 1927, of members to the - Representative Assembly, for the Rural Constituency of Heggadadevanakote Taluq, Mr. Linge Gowda and the petitioner secured the largest number of votes and were declared duly elected.

2. That the petitioner accordingly - attended His Highness' Birth Day Session of the Assembly in June 1927.

3. That Mr. Dase Gowda, a defeated candidate from the same Constituency, filed a petition of objection before the Deputy Commissioner, Mysore District, to the effect that his (petitioner's) election be set aside and prayed that he (Mr.Dase Gowda) be declared elected instead, on the plea of corrupt practices on his (petitioner's) part.

That an enquiry was held into the matter by - Mr.A.V. Ramanathan, Deputy Commissioner, Mysore - District, who, after an enquiry rejected the petition of Mr.Dase Gowda, and he, the Deputy Commissioner, further ordered that he (Mr. Dase Gowda) should bear his (petitioner's) costs of the enquiry proceedings.

Pleader C

4. That against this order, an appeal was preferred to Government by Mr. Dase Gowda and the Government were pleased to pass an ex parte order order, though he (petitioner Lakshminaranappa) was present at Mysore, at the time of passing of the said ex parte order, that both himself and Mr.Dase Gowda were guilty of corrupt practices and that a fourth gentleman, according to the results of the election of March 1927, be declared as duly elected.

That in pursuance of this order, he (Lakshminaranappa) was asked on the 7th October 1927 at - 10 A.M. not to attend the Representative Assembly meeting at a time when he (Lakshminaranappa) was - on his way to the said meeting.

That

3.

That the new candidate who has now been declared elected was not a party either before the Deputy - Commissioner (Mr.A.V.Ramanathan) who held the enquiry as between Mr. Basegowda and himself nor before the - Government in appeal.

That this order has been passed by Government firstly ex parte i.e., without a notice to the petitioner hereof; and secondly against the finding of the Deputy Commissioner, Mysore District, who did - not find anything to set aside his (petitioner Lakshmi Naranappa's election.

5. That according to the rules framed by - Government it has been ruled that in all cases of - appeal before the Goverment against the order of - the subordinate authorities notices should be issued invariably to the parties concerned. This procedure is in vogue from the beginning and is being observed even in ordinary Revenue Appeals and such like proceedings before Government. This most elementary principle and adherence thereto has not been vouchsafed in his (petitioner Lakshminaranappa's) case. This was - all the more necessary especially when an order of - an important subordinate Officer of Government such as the Deputy Commissioner is set aside, as in this - case, much to the prejudice of the petitioner and - for the benefit of a third party. It is significant that the gentleman who is now made a member of the - Representative Assembly has himself stated in his -

deposition

deposition that the petitioner (Lakshminaranappa) is not guilty of any corrupt practice or did anything to that effect.

The result in this case has been that instead of the decision of the electorate being allowed to prevail, a sort of nomination by Government in favour of the fourth gentleman has been substituted.

6. That against this hurried and ex parte order passed in camp in Mysore he, (petitioner B. Lakshminaranappa) presented a review petition to the Dewan Saheb in person. On account of the business of the Representative Assembly, neither the Dewan Saheb nor the Councillor could enquire into the matter. But he (petitioner Lakshminaranappa) was assured that the matter would be enquired into at Bangalore after ascertaining the practice and procedure in respect of such appeal petition.

7. That while the petitioner was thus expecting a notice to appear before Government to represent his case, he received an endorsement stating that Government do not find any grounds to review the orders passed in the matter over-looking paragraph 12 (2) (b) of Government Order No.G. 1456 dated 20th August 1906 and the facts contained in petitioner's affidavit filed on 21-11-1927 (copy enclosed) during the absence of the Dewan Saheb.

8. The petitioner begs to submit that if he had

had been given an opportunity to personally represent his case he would have convinced the benign Government how the Review Petition was sustainable. But unfortunately the petitioner has persistently been - denied an opportunity of being heard in spite of his repeated prayer for the same.

9. As may be inferred from Government Order - No.Rel.663-R-A.32-27-1 dated the 19/20th March 1928, Government have been pleased to realize that injustice will be caused to parties by ex parte orders.

10. In these circumstances the petitioner most respectfully prays that the benign Government may be pleased to reconsider the order passed without hearing him, keeping in view the hardship, mental pain - and humiliation before the public the petitioner has been suffering from in consequence of the Government Order and to direct that his election be allowed to stand good, his petition may kindly be referred to the Revenue Commissioner for disposal in accordance with the Government Order mentioned in para 9 supra.

11. The petitioner further begs to invite - favour of reference to his petitions personally - presented on 3-12-1927 and 16-2-1928 respectively in the matter.

12. A copy of Government endorsement has - already been submitted with the petition dated - 3rd Day of December 1927.

The

The petitioner is a respectable land-owner paying land revenue to the extent of nearly Rs. 500/- per annum besides being a member of the - District Board, Mysore, and keenly interested in Public Life for the last twenty five years. The petitioner is anxious to have a fair and just disposal in the matter.

Bangalore,
31-3-1928.

Petitioner.

Advocate

Advocate

BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA

OF MYSORE.

------:00:-------

Revision Petition of Lakshminarnappa filed on

8th October 1927.

Counter-petitioner	Appellant.
Lakshminarnappa of Bolathur, Heggadadevankote t a l u k.	Dase Gowda of Moleyur

SWORN PETITION OF THE COUNTERPETITIONER.

In connection with appeal of Dase Gowda against the order of the learned Deputy Commissioner, regarding the election of representative Assembly, the Government were pleased to pass an exparte order cancelling the order of the learned Deputy Commissioner, the Counterpetitioner presented a revision application on 8th October 1927 personally and also had an interview with the ~~Dewan~~ Dewan Saheb on 22nd October 27, ~~Having allowed me to explain clearly~~ having been clearly explained the facts of the case, he was pleased to say that the records would be called for and the matter would be disposed of an enquiry.

In addition to the grounds set forth in the ~~original~~ revision petition regarding the ~~illigibility~~ legality of the order passed by Government, the following additional grounds are also set forth for favour of kind perusal.

1. Linge Gowda of Nisna-Bolathur, 8th witness of Dase Gowda has in the first instance stated that he and 3 others Dasnaika etc., came to Heggadadevankote at 4 P.M. 158

on the 12tg the election day, that as it was late that day he stayed there only and supped in the Musafirkhana where the counter-petitioner had arranged for food for all voters, that he received at Re.1 per man towards the cart hire from the counter-petitioner and that he gave his vote the next day to the counter-petitioner. On being cross-examined he said that he and 3 others travelled in one cart and the hire of Rs.2 was paid by the counter-petitioner.

This is contrary to the statement that each man was given Re.1/- for cart hire. Further from a reference to the voters' list and the voting paper it could be seen that he voted on the 1st day only and not on the 2nd day as stated by him and there was no necessity for his stay at Heggadadevankote on that night.

From a reference to the evidence of the counter-petitioner's witness No.9, viz. Kempegowda a member of the same caste as Dase Gowda it could be seen that Linge Gowda is the co-brother of Dasegowda the appellant and as such with a view to support his cause he has deposed falsely in favor of his relative.

The voters' list discloses that his name was not at all included there but he has come and voted managed to Place in lieu of another ~~same~~ Nagegowda.

It would be clearly seen from the above that his evidence is all interested x untrue and could not be relied upon as he, being the nearest relative of Dasegowda must have come to vote for him only and not for any others. A reference to the voting papers can disclose ~~xhexxhuixxhx~~ to whom he has voted.

2. Petitioner's witness No.9 -Mari MalleGowda- states that as he could not vote the 1st day, he stayed and supped that night at the musafirkhana where Lakshminarnappa

26

counterpetitioner had arranged for food for all the voters, on being cross-examined he said that Lakshmanarnappa was resident of Beggadadevankote, that he did not know what his occupation was and that he had no acquaintence with him. When he himself sayd that he does not his whereabouts know the person nor for whom he has voted, can it be though suffering from pain in his leg could have come believed, that he came all the while from his village an unknown simply because he was paid 1 Rupee each here to vote for such a person. A reference to the voting papers will through + light on clearly decide the question. Further being a resident of a village 3 miles from Beggadadevankote he is highly improbable it cannot be believed that he stayed there & supped in the Musafirkhana that night.

3. Witness No.2-Nanjappa and 4.Lakshmiah- No.2 states 509 317 that the counterpetitioner was asking his supporters the villagers of Chakkum, Kalihundi etc., to voto for him only and he did not threaten any body else as stated by Daso Gowda appellant. His statement is corroborated by the 4th witness Lakshmiah. This statement can be presumed as false in as much as the voters of Chikkur Sankhahalli, Kalihundi etc., were at Hampapur which was the centre for their voting and none of the voters of that centre could be expected to be at Beggadadevankote on that date.

Lakshmiah being cross-examined has stated that he and Nanjappa are living in villages within three miles from Holeyur the resident of village of Dasegowda and that they belong to the same caste as Dasegowda that he had never-seen Lakshminarnappa, nor acquainted with him but states that they two cooked at the Musafirkhana the food as per instructions of Lakshminarayanappah who had arranged for the same and that Dasegowda also supped there only. This statement is supported by Nanjappa the 2nd witness. And Dasegowda also admits the same in his deposition

Can it be believed that persons living far away

2)

from ~~ma~~ another unknown person, ~~ha~~ gone to vote for him halt there for two days and work as cooks as per his directions without deriving any benefit from him instead of giving vote to a relation (residing near by) and casteman of theirs and help him to secure votes for him. It is quite clear that these two had been brought from their village by Dase Gowda who has arranged for food in the musafirkhana to his supporters Nay this ~~doubt~~ is confirmed by the statement of counter petitioner witness No.6, Srikantiah, a Hotel keeper at Heggadadevankote ~~who~~ already stated that he had lent vessles to Dase Gowda the Appellant for cooking at Musafirkhana for the use of his casteman, that Dase Gowda had arranged in his hotel at his cost for providing eatables and cofee to his suporters of the Sivachar caste and that as nanadarigowdas do not publicly take food at Sivachar peoples, Dasegowda had arranged for the preparation of food by his own c steman for the use of his caste people. This fact is also corroborated by the statement of the counterpetitioner 5th witness. Thusit is clear that the corruptions and malpractices ha~~v~~ been adopted by Dasegowda and not by the counterpetitioner who being a brahmin could have arranged ~~if he had only~~ (if at all) ~~to do so~~ for the preparation of food by brahmin agency and not by any other casteman.

4. Witness No.1. Chikkaveerappa for appellant. His name does not find a place in the voters list but he has deposed that he voted the 2nd day. This shows that he has assumed a false personality in representing a some person whose name was ~~Hi~~ Gowda and he deserves proper punishment for ~~his such~~ (Such 293) actions and his vote also cannot be a valid one. This person is ~~literate~~ and a patel in the Taluk. To support his own friend

he had played the above mischief and his conduct deserves due ~~serious~~ notice and in this case no value can be attached to his statement.

5. Witnesses Nos.3 and 7- Subba Rao, Beggadadevankote and Hagge Subba Rao. These two were the candidates for Representative Assembly Membership. No.3 has deposed that the counterpetitioner did not threaten any body to vote for him but he only canvassed his case just like other candidates and that he did not know ~~who~~ who had made arrangements for supper in the musafirkhana.

P.W.No.7 who states that there ~~was~~ were no irregularities in the election held and there were ~~no~~ any corrupt practices.

From all the above ~~deposition~~ it is quite clear that Basegowda's appeal is not based on facts but is a result of his failure in getting votes in sufficient number. On the other hand the evidences of witnesses (especially (Nanjappa's, Lakshmiah's and Srikantiah's) clearly go to prove that Basegowda had recourse to corrupt practices and not the counterpetitioner as alleged by him.

In spite of the above fact it is ~~to be regretted~~ that Government have without fully going through the case and without even allowing an opportunity to the counterpetitioner to explain the order of the Deputy Commissioner and sanctioned the membership to a person who ~~has already~~ stated that there was no ~~corruption~~ on the part of the counterpetitioner.

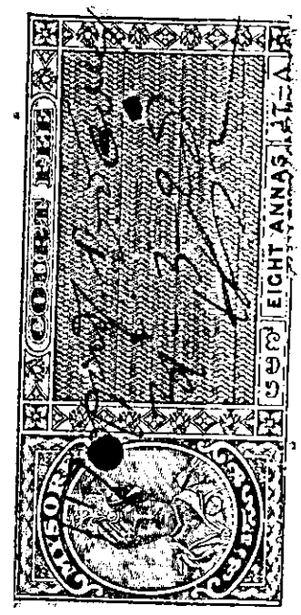
In this connection the petitioner begs to bring ~~it~~ to notice of Government that all his witnesses are ~~noble~~ respectable persons paying a kandayam of upto Rs.250 and proper value

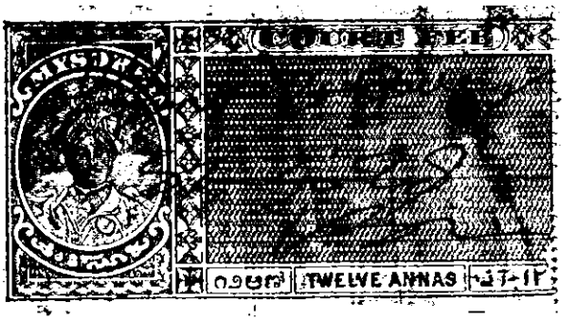
should be given to their statement and they are neither interested in the business nor the casteman of the counterpetitioner. On the other hand the majority of the witnesses of Daso Gowda are either his kinsmen or casteman. Although they have tried as tutors by Dasegowda to depose against the counterpetitioner they have been caught in their own statements while are contrary to what they have said in the chief examination. Further the witnesses who had been present to support the cause of Dasegowda have nevertheless altered the truth proved that the counterpetitioner had not recourse to any corrupt practice.

Under these circumstances the counterpetitioner prays that the entire records with the voting papers and the list of voters that has to vote the 2nd day report of both the Police officers Mr. + amildar as S.D.O. may be obtained from the Deputy Commissioner's office and the cause decided on merit after enquiry as per -- standing order.

The petitioner solemnly affirms that the statement furnished above is true as far as his knowledge goes.

12.11.27





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In the Court of Devan Sahib President Representative Assembly

Regd No. OF 1927-1928.

Lakshmi Narasaiah
District Board Member

Vs.

the above named do hereby nominate and appoint MR. A. R. NAGESVARA IYER, B.A., B.L., ADVOCATE in the above suit and do hereby empower the said ADVOCATE to appear for and on my behalf in the above suit, to take all steps which may be necessary on my behalf arising out of or in connection with the above suit either during progress or after its decision, to sign and subscribe their names to any document which they may deem proper to execute any decree that may be passed in my favour and to receive out of the Court any refund of money which may be lodged or become payable or receivable on my behalf and on receipt thereof to grant receipt or other sufficient discharges for the same, to withdraw, compromise or refer to arbitration the said suit, to appoint one or more substitutes and to act and perform all other matters and things relating thereto or connected therewith, to represent in matters relating to the same and to act as fully and effectually to all intents and purposes as might do if personally present and did the same. And I do hereby agree to pay all fees, costs, charges and expenses which may be incurred and to allow, ratify, and confirm whatsoever the said ADVOCATE shall lawfully do or cause or procure to be done by the virtue of these presents.

In witness whereof have hereunto set hand this day of 192 .

ACCEPTED

A. R. Nagesvara Iyer
R. Venkata Ramaiya
Advocates for Pb
2.4.28

Signed before me by the executant who is known to me.

Sri Venkatesa Press, Bangalore City.

A. P. F. VI. 61j

SUBJECT.....

31

.....

.....

.....

Section RA

File No. 4-27

Serial No. 25

No. Rel 606.

Diary No. 204 *of letter* *replied to*.....
167

General and Revenue Secretariat
(RA)

the *192*

To Be(Thur Lakshmiswamy
Govt
Landlord
Belthur
Hoggadadevana kote
Taluk

Date of issue 5. 5-28

Signed by M. N Sitharamiah

In reply to his petition
requesting that his elect
to the Rep: Assembly
from Hoggadadevanakote
Taluk may be allowed
to stand good in his petition
may be referred to the
Revenue Commissioner
for disposal in accordance
with Govt. order No.
Rel 663/RA 32-27-1
Dt 19. Oct 28 M. Lakshmi

List of enclosures.....

Copied by .....

Examined by .....

WD0525—GPB—30,000—26-5-27

- [illegible] ed
that Government have
passed orders in his case
after a careful perusal
of the records & that they
see no reason to reconsider
the same.

By order.

for Secretary to Govt
Law Department

SR
4/5

208 33

DEWAN'S OFFICE.

RA 4-27 26

1928.

Order.

No. 3194

Name of Petitioner [illegible]

[illegible]

Village Kaliyur

Taluk Hegganadevankote

District Nilgiris

Date of Petition 18-4-28

Date of Receipt 21-4-28

No. of Enclosures nil

ABSTRACT.

prays that his appeal filed with the Board of Revenue in connection the Election disputes may be ordered to be transferred to the Revenue Commissioner for disposal.

submitted
Bom 23/4 JAV 23/4

Laid before the Council for orders 28/4

OFFICE OF THE SECRETARY
GOVERNMENT
28. APR. 1928
REPRESENTATIVE ASSEMBLY
LEGISL. COUNCIL

Read 28/4

WD 558—GPB—1,000—24-9-27

Petitioners have been informed that their appeal is not maintainable. 15/5/28

మైసూరుసీమయందివానస్థానమేలేవేంకటాంబ

OFFICE OF THE DEWAN OF MYSORE.
Date
Post. Regr. No. 3.1.94

పెద్దపదవీవనకోటిరాజ్యేశ్వరు

సేవాదసుబరేదుకొండలప్పకవి

పెద్దపదవీవనకోటిరాజ్యేశ్వరులచేనలిచాగ
దప్పిమైసూరుదివ్యిక్ట్ డేప్యీకమిషనరాఫీసులో
రలిడ్డకమీకలాయర్ములలీల్దారులిల్
మాదిసిట్టినుహీగిరువల్లినన్నకోలులాంమరన్న
లిచారామూడువేనన్ననువిదులఅర్జీదారనన్ను
వనూమూడిచేరిలంసుఖుడాంయతన్నన్నే
మర్కేమూడిరువదాగినసనగిగిండొర్సుంది వ్మమీలి
నాన్నలాసెక్రట్రియవరప్పిలీనదప్పనర్వియమోళి
గబ్బేకొరలజీవజొరిర్మూడికొండెఱుచిగేమీను
లిగలిల్లనానుదిప్టీకమిషనసొజీబరిశరీరా
రులజీరాజర్మూడిదాగ100రూపాయిడిపా
జోప్యూహాజకమూడివ్వీలాపీనీకోడదీపోవనం
థభర్దప్పిసన్నిధ్ధూనర్వే జీర్కోట్టురుర్వీనే
లిదూరిక్షానగిల్లదిబారియుప్పిగిరుప్పే

(1) గిండొసంభందదలపీలుగళిల్లాలిలన్నూ
రమీషన్కొండోనిరవరరీమ్మాన్నక్కో
కేళుడిసిరువేదానిశిబిడుబరుత్తేనన్నల
పీలురవిస్తూక్రిమీషన్కొండోనరిగే

(2) బరలునన్నలపీలుదయచిట్టుచిజాగ
సోనీలువరినక్రేళుడినజీర్కొనిజోడుదేనే

మహాస్వామి
గవ్యగర్భ

A. P. F. VI. G[illegible]

SUBJECT.....

.....

.....

Section RA

File No. 4-27

Serial No. 27

No. 4353.

Diary No. of letter replied to 202

General and Revenue Secretariat

(RA)

the *192*

Date of issue 17-5-1928

Signed by Jm. Sekharamaiya

To Dist Gramodaya Sangha

Mulagumur

Reg'g addn demanding

Sir,

With reference to your petition dt 18.4.28 requesting that the sum of Rs 100/- deposited by you before the Deputy Commissioner Nellore Dt in connection with the objection petition filed by you before that Officer against the election of Mr Balthur —

List of enclosures.....

Copied by .....

Examined by .....

over

Lakshmiaramanappa,
As a Member of the Repr:
Assembly from Heggadadevan-
kote Rural Constituency may
be returned to You and that
the appeal filed by You against
the order of the Deputy Com-
missioner in the same matter
may be transferred to the
Revenue Commissioner for
disposal I am directed
to inform You that orders
have already been passed
in this office letter No. 733 dt 14.4.28 Flag P
RA 4-27-23
directing the return of the deposit
amount paid to You and that
Your appeal has been disposed of
having been
by Government on 5.10.27 in Flag C
Accordance with Rule 6 of the
Rules issued with Notification
No. R 2400/Leg i 12-28-7 dt 19.3.28 Pay of Attendant
Govt. Notn. No. Rel 663 RA 37-27-1 20 Rule 6 of
7.11.23 the Order Rules
Commissioner
authorising the Revenue does not apply to the case -
to dispose of such appeal, Flag Q
in March 1928.

81
Secretary to Govt
Law Department

SR
15/5

QA 4-27
Re. 28 27A.

(37)

Pet. No. 3481

OFFICE OF THE DEWAN OF MYSORE,

Bangalore, dated 3 6 *1928.*

The accompanying petition addressed to the Dewan is forwarded, with compliments, to the Secretary to Government, R. A. & E. C. Department.

M 179 225

OFFICE OF THE SECRETARY TO GOVT. IN R N A
13 JUN. 1928
REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL

Recd 14/6 11/30 pm

By Order,

7/6/28

Private Secretary to the Dewan.

OFFICE OF THE DEWAN
OF MYSORE.
Date of Receipt.....
Petn. Regr. No. 348

To

Amin-Ul-Mulk Mirza M. Ismail,
Dewan-President,
Mysore Representative Assembly,
M Y S O R E.

Sir,

In continuation of the interview which you were graciously pleased to accord to me yesterday in connection with my application for the review of the ex-parte order of the Government dated Camp Mysore, (3-12-27, 16-2-28, 5-10-27, 9-4-28), invalidating my election to the Assembly by the Heggadadevanakote Rural Constituency, in the face of the clear findings on facts by the Deputy Commissioner of Mysore, I beg that you may be pleased to take my case into your kind consideration at the earliest opportunity and pass such orders thereon as may seem to you just and equitable.

2. I beg to draw your attention particularly to the gross injustice which has been done to me and the gratuitous humiliation to which I have been subjected by reason of the order passed on the 5th October 27, without even giving me an opportunity of presenting my case or calling upon me to show cause why the order of the Deputy Commissioner of Mysore who held the inquiry into the allegations made against my election by a rival candidate, should not be aside.

3. It is the undisputed right of the every indiyidual to be heard in his own defence. It is a rule of

procedure for the disposal of cases by the Government that no orders should be passed reversing a decision under appeal without giving a hearing to the party likely to be affected adversely. But it is most unfortunate that in my case this rule was not observed and everything was done behind my back, contrary to all principles of natural justice, and of equity and good conscience. It is worthy of note that a rival candidate who had never claimed the seat and who in his evidence before the Deputy Commissioner had explicitly denied the allegations of corruption against me, has been arbitrarily declared by Government to have been as a Member of the Assembly.

4. In this connection, I may mention that in several appeals which had been disposed of without hearing the Government were pleased to review their decisions and that in one case Viz. that of Mr. H.R. Bhadrappa who was elected from Koratagere the decision of the Deputy Commissioner was set aside on review though the appeal had been previously dismissed. I do not know why my application has not yet been posted for hearing.

5. As I have reasons to apprehind that the Law Secretary is not very well disposed towards me. I pray file of this case may be directed to be handled by some other secretary.

6. In view of all the circumstances of the case, may I appeal you once more to expedite a decision in the matter, if necessary by ordering a fresh inquiry into the matter, and giving me an opportunity of presenting my case, and do justice to me, and in the meantime, pending the result of any such enquiry or your decision to reinstate me in my Membership of the Assembly as the duly elected representative of my Constituency.

For which act of kindness, I shall as in duty bound every pray.

2nd. June 1928,

M Y S O R E.

I beg to remain

S i r,

Your most obedient Servant,

C/O C. Narasimiah Esq.,
B.A., B.L.,
Advocate, Lakshmipuram,
Mysore.

RA 4-27 2000-27(15) 226. (41

DEWAN'S OFFICE.

1928.

Order.

No. 3450

Name of Petitioner. Laxminarayanappa

Village Hegganadevanakai

Taluk Do

District Kaggere

Date of Petition 12-4-28.

Date of Receipt 1-6-28.

No. of Enclosures nil

ABSTRACT.

prays that his appeal case regarding the election of Mr. Basegowda to the R.A. may be ordered to be heard by the Revenue Commissioner.

Submitted:

Secretary R.A & L.C.
With Compliments
B.O.
1/6/28

PRIVATE SECRETARY,
TO THE DEWAN OF MYSORE.

1/6

1/6

OFFICE OF THE SECRETARY
TO THE
REPRESENTATIVE ASSEMBLY
AND
LEGISLATIVE COUNCIL.
13 JUN 1928

Rec'd 14/6
11/30 Am

WD 558—GPB—1,000—24-9-27

42

OFFICE OF THE DEWAN
OF MYSORE.
Date of Receipt.....
Petn. Regr. No. 3450

12.4.28